

### **REMARKS**

Claims 1-2, 8, and 21-22 are pending. By this amendment, claims 1, 8, and 21-22 are amended. Independent claims 1, 8, and 22 are amended to more precisely recite the novel features of the present application. Support for the amendments can be found at least at page 8, lines 4-18; page 11, lines 22-35; and page 16, lines 26-35 of the specification. No new matter is introduced. Reconsideration and issuance of a Notice of Allowance are respectfully requested.

#### **35 U.S.C. § 101 Rejections**

On page 4 the Office Action rejects claims 21 and 22 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

Claim 1 is directed to statutory subject matter. Claim 21 depends from claim 1 and is therefore directed to statutory subject matter.

Claim 22 recites a *software routine stored in the memory and executed by the processor* to check compliance with the proposed rules and to receive an indication that the proposed rules are acknowledged by a government agency. Accordingly, the system recited in claim 22 is *not* performed by a person. Withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

#### **35 U.S.C. § 103 Rejections**

On page 5 the Office Action rejects claims 1, 8 and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,240,295 to Kennedy, II et al. (hereafter Kennedy). The Office Action asserts on pages 2 and 6 that Kennedy teaches checking for compliance with a set of rules at column 4, lines 49-55, column 5, lines 60-67, and column 10, lines 10-15. This rejection is respectfully traversed.

Kennedy is directed to a messaging unit equipped with a cellular transceiver. Column 4, lines 49-55, column 5, lines 60-67, and column 10, lines 10-15 of Kennedy describe, respectively, a pre-call validation performed by clearinghouse, a handshake protocol that minimizes cellular telephone fraud and maintains secured communications, and a method that determines whether a reporting event has occurred by executing reporting event determination module. First, the pre-call validation and the handshake protocol are *not* a routine stored in the memory and executed by the processor to check compliance with the proposed rules by monitoring the environmental data and correlating the environmental data with one or more

thresholds and set points to determine if the thresholds and set points have been exceeded. Similarly, determining whether a reporting event has occurred is a simple flag event by determining if the flag is on or off, which is *not* a complex routine that checks compliance with the proposed rules by monitoring the environmental data and correlating the environmental data with one or more thresholds and set points to determine if the one or more thresholds and set points have been exceeded.

Furthermore, regarding the Office Action's assertion on page 3, Applicant respectfully submits that the recitations in claims 1 and 22 are "wherein" clauses, not "whereby" clauses, and therefore, the cases regarding "whereby" clauses do not apply.

Additionally, regarding the Office Action's assertion on pages 7 and 9-11 regarding KSR, Applicant respectfully submits that KSR merely rejects the rigid teaching-suggestion-motivation test in favor of a flexible approach. Nowhere does KSR indicate that teaching is not required for a finding of obviousness. The law is clear (and has not changed) that a claim limitation cannot be ignored. *See In re Vaack*, 947 F.2d 488 (Fed. Cir. 1991) and *MPEP* § 2142.

Applicant respectfully submits that Kennedy does not disclose or suggest all of the limitations of amended claim 1. For example, Kennedy does not disclose or suggest "the processor section further includes environmental sensors that measure environmental data and a routine stored in the memory and executed by the processor to check compliance with the proposed rules by monitoring the environmental data and correlating the environmental data with one or more thresholds and set points to determine if the one or more thresholds and set points have been exceeded," as recited in amended claim 1. Therefore, amended claim 1 is patentable.

Amended claim 8 recites features similar to those of claim 1, and for this reason, claim 8 also is patentable.

Claim 21 depends from patentable claim 1. For these reasons and the additional features it recites, claim 21 also is patentable.

Withdrawal of the rejection of claims 1, 8, and 21 under 35 U.S.C. §103(a) is respectfully requested.

On page 9 the Office Action rejects claims 2 and 22 under 35 U.S.C. §103(a) over Kennedy in view of "Farmer's Mutual Benefit Association" (hereafter Association). This rejection is respectfully traversed.

Association does not cure Kennedy's defect and does not disclose or suggest "the processor section further includes environmental sensors that measure environmental data and a routine stored in the memory and executed by the processor to check compliance with the proposed rules by monitoring the environmental data and correlating the environmental data with one or more thresholds and set points to determine if the thresholds and set points have been exceeded," as recited in amended claim 1. Therefore, amended claim 1 is patentable.

Amended claim 22 recites features similar to those of claim 1, and for this reason, claim 22 also is patentable.

Claim 2 depends from patentable claim 1. For these reasons and the additional features it recites, claim 2 also is patentable.

Withdrawal of the rejection of claims 2 and 22 under 35 U.S.C. §103(a) is respectfully requested.

#### **Conclusion**

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

Date: **November 25, 2009**

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